

**Office of Professional Accountability (OPA)
Commendations & Complaints Report
Sept 2007**

Commendations:

Commendations Received in Sept: 6

Commendations Received to Date: 119

<i>Conrad, Gabriel</i>	Officer Conrad received a letter of commendation for his prompt and professionalism actions on a car prowler call. He took a statement, inspected the vehicle, spoke with hotel staff and dusted parts of the van for potential fingerprints.
<i>Emerick, David</i>	Lt. Emerick received a letter of commendation for his investigation surrounding disturbing circumstances involving a victim's death. The victim's parents were completely satisfied with his actions, plans and concern regarding the circumstances surrounding the incident.
<i>Conley, Sarah</i>	Officer Conley was commended for her actions and professionalism during the investigation of a motor vehicle accident. She was very professional in her preparation of the report and her testimony at trial.
<i>Coolidge, Marshall Ocker, Philip Thomas, Robert</i>	A reported stolen bobcat equipped with a silent alarm was tracked and recovered within minutes of the alarm activation. Officers were commended for their quick response.

*This report includes commendations received from citizens or community members. Numerous commendations generated within the department are not included.

Sept 2007 Closed Cases:

Cases involving alleged misconduct of officers and employees in the course of their official public duties are summarized below. Identifying information has been removed.

Cases are reported by allegation type. One case may be reported under more than one category.

STANDARDS OF CONDUCT: LAWS/POLICY/PROCEDURES

<p>The complainant alleged that the named employee did not complete an accident report when asked to do so, and did not check the involved vehicles for damage nor ask if either party was injured.</p>	<p>The preponderance of the evidence can neither prove nor disprove the allegation. The named employee stated that an inspection of the vehicles was conducted, no one was injured, and the involved parties had exchanged insurance information. The named employee also stated that the complainant asked if a police report was necessary and did not request that a report be written. An independent witness to the collision could not be reached for a statement. Finding Duty to Investigate and Discretion—NOT SUSTAINED.</p>
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STANDARDS OF CONDUCT: PROFESSIONALISM

<p>The complaint alleged that the named employee took up a fighting stance while yelling and using profanity towards a subordinate. The complaint further alleged that the subordinate was ordered into an office where no witnesses would be present, where the yelling continued and where the subordinate employee was referred to derogatorily. The subject employee stated that the named employee's behavior was unprofessional and harassing.</p>	<p>It was determined that the employee's actions were consistent with the authority delegated to him by his superiors to command and address the operational issues relevant to the proper functioning of the unit.</p> <p>The Public Employment Relations Commission (PERC) also reviewed this incident as the result of an unfair labor practices complaint. PERC ruled that the conduct did not rise to the level of a threat of reprisal or force associated with the employee's exercise of rights, did not interfere with the employee's rights, and did not discriminate against the employee. Finding—ADMINISTRATIVELY UNFOUNDED.</p>
<p>The complainant alleged that the named employee jumped on his vehicle and</p>	<p>The complainant was leaving a sporting event where the named employee was directing traffic. The complainant failed to comply with the</p>

hit it with his fist causing a dent.	employee's verbal commands and almost struck the employee with his vehicle. The employee did strike the complainant's vehicle with his fist because he was in fear of being struck by the vehicle. An independent witness provided his information, which was listed on the traffic citation along with the officer's name and serial number. Finding Courtesy—EXONERATED; Duty to Identify—NOT SUSTAINED.
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UNNECESSARY FORCE

The complainant alleged that the named employee used excessive force by applying a taser to the left side of his body.	The named employee observed the complainant drive in a reckless manner. The complainant refused to pull over when the traffic stop was initiated thereby creating a public safety issue. A contact team with supervisory oversight was put in place when the complainant finally pulled over, but he refused to comply with the employee's commands to exit his vehicle and became argumentative. The complainant was tased and removed from the vehicle, minimizing risk and ensuring public safety. Finding—EXONERATED.
<p>The complainant alleged that the named employees used excessive force when he was pepper sprayed, tased, and kicked during his arrest.</p> <p>The complainant further alleged that a named employee made racially inappropriate comments to him at the precinct holding cell.</p>	<p>The named employees responded to a fight disturbance at a Downtown nightclub where they encountered the complainant who was intoxicated. The complainant refused to respond to the employees' requests to leave the area even when his friends and associates were pleading with him to comply. The complainant turned on the employees with balled up fists and charged at them in a fighting stance. The employees applied escalating force to control and apprehend the resistive complainant, which included pepper spray, taser, an asp, and hands on force. Independent witnesses support the employees' version of the incident. Finding Force—EXONERATED.</p> <p>The complainant also alleged that a Spanish-speaking employee made an inappropriate racial comment to him. The named employee denies making this comment and stated that he asked the complainant in Spanish, "Young man, what happened to you?" Other employees were present in the holding cell area and did not</p>

	witness any animosity between the employee and complainant. A supervisor screened the incident and the complainant did not raise this issue at that time. Finding—UNFOUNDED.
<p>The complainant alleged that the named employees, after handcuffing her son, lifted his head off the ground, and then smashed his face into the concrete, chipping a tooth.</p> <p>A patrol car video recorded the named employee making an inappropriate comment following the arrest of the complainant.</p>	<p>The named employees located a stolen vehicle where the occupants had fled. A short time later, a possible suspect, the complainant's son, was located behind a store, but ran from the employees. During the arrest, the subject was on the ground, with his hands underneath him, and struggling with the employees. The employees restrained the subject by placing their knees on his back to bring him into compliance. It is reasonable to conclude that the tooth was chipped during the struggle to handcuff the subject. The evidence supports that the employees' use of force was proper and reasonable. Finding—EXONERATED.</p> <p>A patrol car video captured a named employee making an unprofessional comment immediately following the arrest is cause for concern. Even though the employee may still have been under the stress of the struggle/arrest and was having a private conversation with another officer away from the subject, it is deemed inappropriate. Finding Discretion—SUPERVISORY INTERVENTION.</p>
<p>The complainant alleged that named employees officers used unnecessary force during his arrest when one employee struck him in the shoulder with a baton.</p> <p>The complainant further alleged that a second named employee grabbed his arms during the arrest.</p>	<p>A preponderance of the evidence demonstrated that the named employee lawfully contacted the complainant for a pedestrian violation. The complainant refused to comply with repeated verbal commands from the employee and pulled away from the employee when he tried to detain him physically. During the arrest, the employee struck the complainant's arm once with his baton as a pain compliance technique to overcome the complainant's physical resistance to being handcuffed.</p> <p>Further, the preponderance of the evidence demonstrated that the second employee, while assisting the first employee in controlling the complainant, was lawfully justified in grabbing his arm. The use of force was reported, documented, and screened by a supervisor. Finding—</p>

	ADMINISTRATIVELY EXONERATED.
The complainant alleged that the named employee was harassing him when he was stopped for a traffic violation. During the filing of the traffic complaint, the complainant related an excessive force incident that had occurred a year earlier where the named employee had tased him several times during his arrest for trespassing.	It was determined that the named employee had a lawful justification for contacting complainant in the traffic incident and that the allegation of “harassment” by the named employee is without merit. A preponderance of the evidence demonstrated that the named employee had a lawful justification for contacting complainant in the trespassing incident. The force used was reasonable and necessary to overcome the complainant’s active resistance. The incident was thoroughly documented and screened, including photographing complainant. Finding— ADMINISTRATIVELY EXONERATED.
The complainant alleged that the named employees dislocated his arm when he was handcuffed and arrested for an attempted residential burglary.	The evidence overwhelmingly established that the complainant’s allegations are without merit. The complainant broke through a door and fell down a flight of concrete stairs. The complainant also fought with and was beaten in the head with a hammer by the homeowner, whose house the complainant was burglarizing. The homeowner stated the complainant was complaining about the pain in his arm before he was handcuffed and neither employee used force on the complainant during his arrest. Finding— ADMINISTRATIVELY UNFOUNDED.
The complainants, relatives of the subjects, alleged that the named employees used excessive force without provocation or justification when arresting two subjects for an assault.	The named employees responded to an assault, where the victim identified the subjects, as they were walking away from the scene. The named employees contacted the two subjects, who refused to comply with the employees’ command and fought with the employees during the contact. The preponderance of evidence demonstrated that named employees acted lawfully and consistently with Department policy when arresting the two combative subjects for the assault. The use of force was reported, documented, and screened by several supervisors. Finding— ADMINISTRATIVELY EXONERATED.
The complainant alleged that the named employees used excessive force by kicking and punching her	A preponderance of the evidence demonstrated that the unjustified and aggressive conduct of the complainant toward the named employees and others necessitated the use of physical force by

<p>while she lay passively on the ground for five minutes.</p>	<p>the employees in order for the employees to defend themselves and subdue the complainant. The force used was lawful, necessary, and reasonable under the circumstances and the named employees thoroughly and properly documented their actions and several Patrol supervisors screened the incident. Finding— ADMINISTRATIVELY EXONERATED.</p>
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September Cases Mediated:

- The complainant alleged that the named employee was rude and disrespectful when he yelled at her while giving her a verbal warning for a traffic violation and that she had not committed the traffic violation, her husband had.
- The complainant contacted a supervisor to report rude behavior during a fatal traffic accident
- The complainant alleged that the named employee targeted his vehicle for selective parking enforcement and that the employee had left rude notes to the notices. The complaint also stated that the employee was attempting to grant parking privileges to local residents rather than respecting that street parking is first-come, first-served.
- The complainant was involved in a traffic accident and, after debating the issue with the employee, was ultimately cited for having caused the accident. The complainant also believed his ethnicity and appearance were also included as a basis for the citation.

Definitions of Findings:

“Sustained” means the allegation of misconduct is supported by a preponderance of the evidence.

“Not Sustained” means the allegation of misconduct was neither proved nor disproved by a preponderance of the evidence.

“Unfounded” means a preponderance of evidence indicates the alleged act did not occur as reported or classified, or is false.

“Exonerated” means a preponderance of evidence indicates the conduct alleged did occur, but that the conduct was justified, lawful and proper.

“Supervisory Intervention” means while there may have been a violation of policy, it was not a willful violation, and/or the violation did not amount to misconduct. The employee’s chain of command is to provide appropriate training, counseling and/or to review for deficient policies or inadequate training.

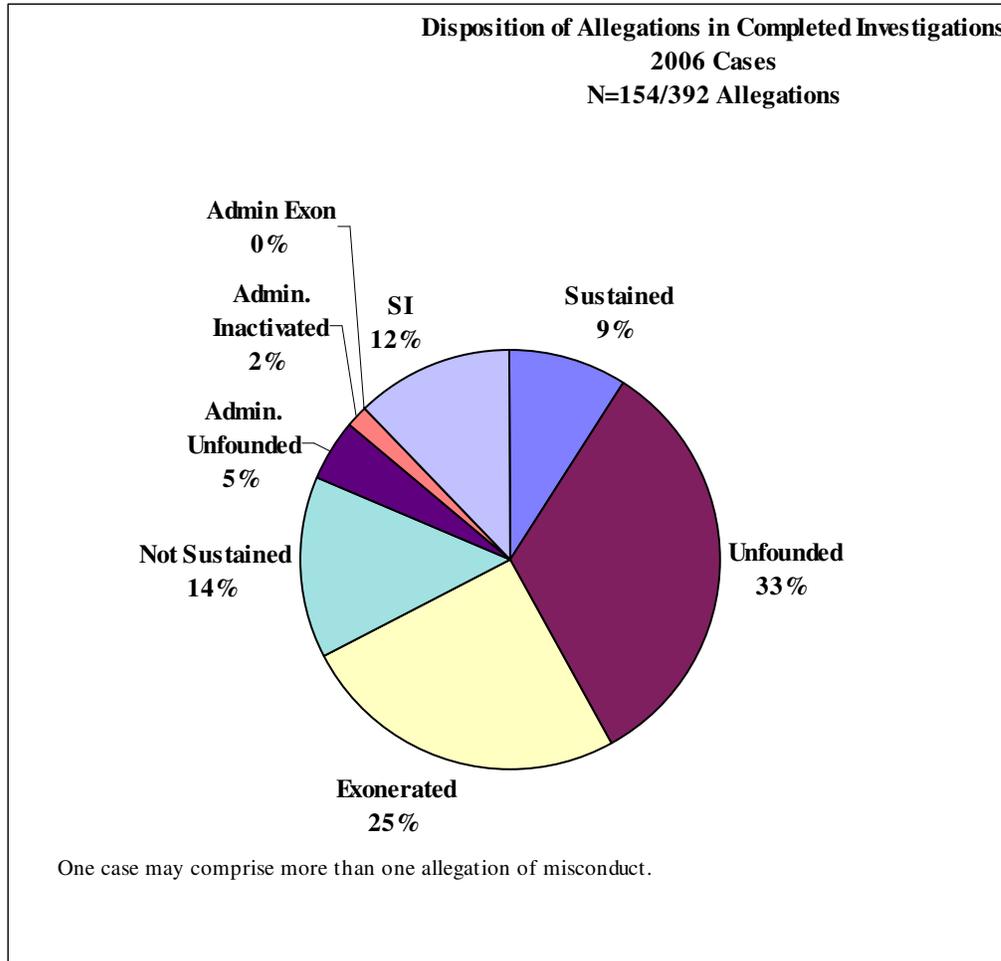
“Administratively Unfounded/Exonerated” is a discretionary finding which may be made prior to the completion that the complaint was determined to be significantly flawed procedurally or legally; or without merit, i.e., complaint is false or subject recants allegations, preliminary investigation reveals mistaken/wrongful employee identification, etc, or the employee’s actions were found to be justified, lawful and proper and according to training.

“Administratively Inactivated” means that the investigation cannot proceed forward, usually due to insufficient information or the pendency of other investigations. The investigation may be reactivated upon the discovery of new, substantive information or evidence. Inactivated cases will be included in statistics but may not be summarized in this report if publication may jeopardize a subsequent investigation.

Status of OPA Contacts to Date:

2006 Contacts	Jan-Dec 2006
Preliminary Investigation Reports	282
Cases Assigned for Supervisory Review	86
Cases Assigned for Investigation (IS;LI)	154*
Commendations	397

*includes 2006 cases closed in 2007



2007 Contacts	Sept 2007	Jan-Aug 2007
Preliminary Investigation Reports	26	271
Cases Assigned for Supervisory Review	15	83
Cases Assigned for Investigation (IS;LI)	23	127
Commendations	6	119